IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2847 OF 2002

Milind Ganesh Gore .. Petitioner

V/s

State of Maharashtra & ors. .. Respondents

Ms.Shubhangi Deshmukh for the Petitioner.

Ms. S. Sridharan, A.G.P. for Respondent No.1.

Mr.A.V. Bukhari for Respondents No.2 and 3.

Mr.B.V. Phadnis for Respondent No.4.

CORAM : H.L. GOKHALE & ABHAY S. OKA, JJ.

DATE : 17TH FEBRUARY 2006

ORAL JUDGMENT : (Per H.L. Gokhale, J.)

1. Heard the counsel for the parties.

2. The Petitioner has been teaching as a Lecturer in Chemistry in the college run by Respondent No.3 Society at Ratnagiri. He has been working over there since August 1988 in R.P. Gogate College of Arts & Science run by the said institution. He was selected after due procedure initially and appointed on a temporary basis which went on every year. He was

however not regularised since the post on which he was appointed was a reserved post meant for scheduled caste candidate. Inasmuch as the college did not get necessary candidate for the post, the Petitioner has been continued since then.

3. The Petitioner has thereafter represented for his regularisation. The college also represented on 8th May 1996 supporting him. The request of the college for dereservation of the post was however rejected by the State Government by its letter dated 10th October 2001. This has ultimately led to the filing of the petition wherein this decision dated 10th October 2001 has been challenged and a prayer is made that the Petitioner be confirmed in the post of Lecturer in Chemistry right from his initial appointment.

4. Ms.Deshmukh for the Petitioner points out that a number of petitions of the present kind have been considered by different Division Benches from time to time and directions have been given to the State Government to consider such cases for regularisation. This has been on the footing that the persons from the particular community, as required, are not available and for years together the qualified teachers are appointed in those posts on temporary basis. She has drawn our

attention to one such order passed by this Division Bench on 27th January 2006 in Writ Petition No.1501 of 2003 and other petitions filed by Chhaya Dixit against Bhavan's Hazarimal Somani College & others. The order refers to earlier orders of other Division Benches.

5. Ms.Sridharan, A.G.P. for Respondent No.1, has left it to the court to pass appropriate order considering that similar orders have been passed in other matters and it is quite fair on her part.

6. In the circumstances, we allow this petition, set aside the order/letter dated 10th October 2001 passed by the State Government and direct the University to forward the proposal of the college for regularisation of the Petitioner to the State Government within 4 weeks from today. The Government will take its appropriate decision to dereserve the post within 12 weeks thereafter.

7. We expect the Government to consider all these factors in an appropriate manner and particularly the fact that right from 1988, i.e. over last 18 years, the post has been occupied by the Petitioner on a temporary basis for the reason that the person belonging to the particular community is not available. We would have

been justified in issuing a mandamus to regularise, however we refrain from doing so hoping that the Government will act appropriately.

8. Rule is made absolute as above with no order as to costs.

(H.L. GOKHALE, J.)

(ABHAY S. OKA, J.)